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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,754	04/09/2004	John Edward O'Neill	JEO-00101	1868
28960	7590	11/27/2007		
HAVERSTOCK & OWENS LLP 162 N WOLFE ROAD SUNNYVALE, CA 94086			EXAMINER MENDIRATTA, VISHU K	
			ART UNIT 3711	PAPER NUMBER
			MAIL DATE 11/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/821,754

Applicant(s)

O'NEILL, JOHN EDWARD

Examiner

Vishu K. Mendiratta

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 33, 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1-4, 6-9, 11-12, 33-34 rejected under 35 U.S.C. 103(a) as being unpatentable over Cheney (4249740) in view of Hasek (6817613).

Claims 1,7,12: Cheney teaches a plurality of first game pieces designated by **first** type (queen 22)) having upstanding face and connected to other queens (Fig.3), a plurality of **second** game pieces designated as second type (king 21), a plurality of **third** game pieces designated as third type (King's rook 13. Queen's rook 32), a plurality of **fourth** game pieces designated by a fourth type (King's bishop 14, queen's bishop 31), a plurality of **fifth** game pieces designated by fifth type (king's knight 15, queen's knight 30), a plurality of **seventh** game pieces designated as seventh type (pawns 42-49), a plurality of **sixth** game pieces (time rings Fig.9) of three different colors and associated with all game pieces. Association of these sixth pieces is clearly indicated by Fig.1 as an example of placing these rings on top of all game pieces as required. Cheney also teaches a game board configuration that can be treated as having inner play area and outer play area.

Cheney teaches all limitations except that it does not teach sixth game pieces in four colors.

Hasek (6817613) teaches and demonstrates a timeline (18) of events having more than four.

As best understood the colors of sixth game pieces in Cheney are demonstrating a time line with respect to past, present and future. It is well known that timeline can be represented by other than the three demonstrated by Cheney. Time lines are known to be represented by number of years, months, weeks, days and several other ways to indicate past present and future times.

In order to make the game challenging, it would have been obvious to present the Cheney time line in more than three and at least four different sections to be represented by four different colors. One of ordinary skill in art at the time the invention was made would have suggested providing four colored time rings to make the game challenging.

Claims 2, 8: Cheney teaches a game with seven different shapes king, queen, rook, bishop, knight, pawn and rings.

Claims 3-4, 9: Cheney teaches a game board grid (Fig.11-15) with outer and inner squares. Chess like games have 8x8 cell structure.

Claims 6, 11, 33-34: Designating game pieces is being interpreted as naming them with certain terms. This does not change the game pieces themselves. Chaney game pieces can be named tree types without any structure change. Shapes of game pieces are personal preference and aesthetic choices. In order to make the game appeal to potential players, it would have been obvious to modify game piece shapes to preference/choice. One of ordinary skill in art at the time the invention was made would

have suggested providing game piece shapes according to aesthetic preference and choices.

3. Claims 5,10 rejected under 35 U.S.C. 103(a) as being unpatentable over Cheney in view of Hasek as applied to claim1 above, and further in view of Comeaux (4046381). Chaney and Hasek teach all limitations except that it does not provide a random device. Comeaux teaches a die (36).

It is well known in any board game to determine an order of play. The art area recognizes rolling a die to determine who goes first. In order to avoid any confusion and determine who goes first, it would have been obvious to provide a random device such as a die. One of ordinary skill in art at the time the invention was made would have suggested providing a random selection device to determine order of play.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-12, 33, and 34 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K. Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

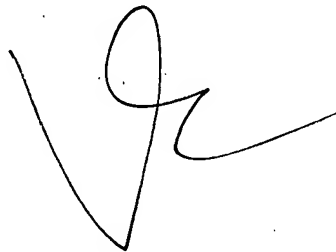
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VKM  
November 21, 2007

A handwritten signature in black ink, consisting of a large 'V' followed by a stylized 'K' and a horizontal line extending to the right.

Vishu K Mendiratta  
Primary Examiner  
Art Unit 3711